

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

MAUD SMITH, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:21-cv-00095MTS
)	
REYNOLDS COUNTY MISSOURI,)	
TOM STOUT, SAMUEL HUFF,)	
STEVE STOOPS, CODY NEWMAN,)	
And DONALD HORN)	
)	
Defendants.)	

**PLAINTIFFS' MOTION FOR APPROVAL OF THE SETTLEMENT FOR THE
INJURIES TO AND DEATH OF ADRIAN K. SMITH, DECEASED, WITH DEFENDANTS
REYNOLDS COUNTY, MISSOURI, TOM STOUT, SAMUEL HUFF, STEVE STOOPS,
CODY NEWMAN and DONALD HORN AND TO DISTRIBUTE THE SETTLEMENT
PROCEEDS TO THE HEIRS AND BENEFICIARIES OF ADRIAN K. SMITH, DECEASED**

Plaintiffs Maud Smith, Isayah Smith (now 18 years of age), and Elyjah Smith (now 18 years of age), as the only Class 1 Beneficiaries under the Missouri Wrongful Death Statute §537.080 (2016), and as Heirs and Beneficiaries of Adrian K. Smith, Deceased ("Plaintiffs"), by and through counsel, pursuant to R.S.Mo. §537.080, §537.090, and §537.095 R.S.Mo. (2016), hereby move the Court for approval of the settlement of the causes of action and claims Plaintiffs have asserted for and on behalf of the surviving beneficiaries of Adrian K. Smith, deceased against the Defendants Reynolds County, Missouri, Tom Stout, Samuel Huff, Steve Stoops, Cody Newman and Donald Horn ("Defendants") for the injuries to and death of Adrian K. Smith, deceased and to distribute the Settlement Proceeds to the heirs and beneficiaries of Adrian K. Smith, deceased. Plaintiffs request approval of the settlement on the following grounds:

1. Plaintiffs have asserted claims for damages against the Defendants arising out of the injuries to and death of Adrian K. Smith, deceased in Reynolds County, Missouri on November 19, 2018. Plaintiffs contend that the injuries to and death of Adrian K. Smith, deceased were caused by the acts, omissions and negligence of the Defendants arising out of the detention of Adrian K. Smith by Defendants in in the Reynolds County, Missouri jail from September 26, 2018 through November 19, 2018 and include claims for injuries to and death of Adrian K. Smith, deceased on November 19, 2018 pursuant to the Missouri Wrongful Death Act, R.S.Mo. §537.080, *et seq.* (2016) and constitutional violations as is more specifically alleged in the Complaint filed herein and incorporated herein by reference. The Defendants have generally and specifically denied the claims of the Plaintiffs in the Complaint in their Joint Answer filed herein which is incorporated herein by reference.

2. Decedent Adrian K. Smith is survived by his mother Plaintiff Maud Y. Smith and his only two children Plaintiff Isayah Smith (now 18 years of age) and Plaintiff Elyjah Smith (now 18 years of age), who are the only individuals entitled to bring an action for the injuries to and death of Adrian K. Smith, deceased under R.S.Mo. §537.080.1(1). Decedent's father is deceased. No other person known to the Parties hereto is entitled to bring an action for the alleged injuries to and death of Adrian K. Smith, deceased under R.S.Mo. §537.080.1(1) other than the individuals identified in this paragraph.

3. Pursuant to the provisions of R.S.Mo. §537.095, all persons having any cause of action under R.S.Mo. §537.080.1(1) for the injuries to and death of Adrian K. Smith, deceased will be notified of this cause of action, the filing of this Motion for the Approval of the Settlement for the Injuries to and Death of Adrian K. Smith, Deceased with the Defendants and to Distribute the

Settlement Proceeds to the Heirs and Beneficiaries of Adrian K. Smith, Deceased ("Motion") and the date of the hearing on the Motion by being a Party to this action.

4. Pursuant to the provisions of R.S.Mo. §537.095, Plaintiffs may compromise and settle the claim for damages for the injuries to and death of Adrian K. Smith, deceased as described in Paragraph 1, without the joinder of any other Party. All heirs and beneficiaries of Adrian K. Smith, deceased in R.S.Mo. §537.080.1(1) will have the opportunity to attend the hearing to approve the settlement and the distribution of the Settlement Proceeds to the heirs and beneficiaries of Adrian K. Smith, deceased.

5. This Court has jurisdiction and venue over the causes of action asserted by the Plaintiffs against the Defendants because the alleged acts causing the alleged injuries to and death of Adrian K. Smith, deceased occurred in Reynolds County, Missouri located in the Eastern District of Missouri, Southeastern Division.

6. Although claims have been made against the Defendants, the Defendants have denied and continue to deny any negligence, fault, act or omission with respect to the incidents or occurrences allegedly causing the injuries to and death of Adrian K. Smith, as are alleged in the Complaint filed herein.

7. Plaintiffs have fully investigated the facts and circumstances surrounding the allegations contained in the Complaint, the injuries sustained by Adrian K. Smith, deceased, and the cause of Adrian K. Smith's death. Plaintiffs believe that Defendants will continue to strongly contest any liability in this case. Considering all of the facts and circumstances, Plaintiffs believe that it will be in their best interest to waive a trial by jury and to fully settle the claims against Defendants.

8. Plaintiffs have continued to pursue the causes of action against the Defendants and believe that the amount of liability and damages attributable to the Defendants has been and is contested

both to liability and to the extent of damages. Taking into consideration the expense, delay and uncertainty of litigation, Plaintiffs and the Defendants have agreed to a settlement and compromise of the aforementioned claims subject to the Court's approval. The Parties have agreed to settle all of the claims against the Defendants, including all claims for the injuries to and death of Adrian K. Smith deceased, and all other claims for damages against the Defendants arising out of the alleged injuries to and death of Adrian K. Smith on November 19, 2018, including all claims for damages for wrongful death and other damages to Adrian K. Smith provided in R.S.Mo. §537.090 (2016) and all claims for damages to Adrian K. Smith's surviving heirs and beneficiaries under R.S.Mo. §537.080.1 by reason of the injuries to and death of Adrian K. Smith, the consideration for which is the payment of Nine Hundred Thousand Dollars and 00/100 (\$900,000.00) on behalf of the Defendants ("Settlement Proceeds).

9. Plaintiffs, with advice of counsel, having considered the circumstances surrounding the death of Adrian K. Smith state and represent to the Court that they believe that this proposed offer of settlement and compromise is fair and reasonable, and is in the best interest of the heirs and beneficiaries of Adrian K. Smith, deceased and should be approved by the Court.

10. Plaintiffs contracted with the Walsh Law Firm, LLC, Steward Law Firm, LLC, and their affiliated counsel (collectively referred to herein as "Plaintiffs' Counsel") to represent Plaintiffs' interest in the claims and causes of action against the Defendants. Pursuant to the Contract of Employment, Plaintiffs' Counsel is entitled to attorney fees in the amount of forty percent (40%) of the gross settlement proceeds and payment of expenses if the proposed settlement is approved. Consequently, Plaintiffs and Plaintiffs' Counsel request the Court to approve a payment to the Plaintiffs' Counsel in the amount of Three Hundred Sixty Thousand Dollars and 00/100 (\$360,000.00) for attorney fees and Ten Thousand Two Hundred Eighty Dollars and Sixty Cents

(\$10,280.60) for expenses from the Settlement Proceeds in full payment of their attorney fees and expenses upon approval of the settlement. All of Plaintiffs' Counsel stipulate and agree that the total attorney fee and expenses amount which is approved by the Court shall be paid to Walsh Law Firm, LLC who will thereafter distribute said sums amongst Plaintiffs' Counsel.

11. Plaintiffs seek the Court's approval of this settlement and a Judgment awarding the Settlement Proceeds for the exclusive use and benefit of the Plaintiff Maud Smith as the Mother of Adrian K. Smith, Plaintiff Isayah Smith (now 18 years of age) as the child of Adrian K. Smith, and Plaintiff Elyjah Smith (now 18 years of age), as the child of Adrian K. Smith, to be distributed to each of them and their attorneys as follows:

- (a) \$176,573.14 to Plaintiff Maud Smith, individually and as an heir and beneficiary of Adrian K. Smith, deceased;
- (b) \$176,573.13 to Plaintiff Isayah Smith, individually and as an heir and beneficiary of Adrian K. Smith, deceased;
- (c) \$176,573.13 to Plaintiff Elyjah Smith, individually and as an heir and beneficiary of Adrian K. Smith, deceased; and
- (d) \$370,280.60 to Plaintiffs' Counsel in payment of attorney fees and expenses.

12. Each Plaintiff requests the Court to grant each of them leave to waive a jury herein and to submit all issues in the proposed settlement to this Court for determination and approval of the settlement for the injuries to and death of Adrian K. Smith, deceased and to hear and determine the amount of the distribution of the Settlement Proceeds to each Plaintiff and to approve the amount of attorney fees and expenses to be paid to Plaintiffs' Counsel as requested herein.

WHEREFORE, Plaintiffs respectfully request the Court:

- A. Hear testimony upon the merits of Plaintiffs' claims against Defendants; Conclude that the proposed settlement should be accepted and approved, and make an Order and Judgment authorizing the settlement and directing Plaintiffs to settle all of the claims against Defendants by accepting the settlement sum in full and complete settlement of their claims, and upon payment of the settlement sum, to execute and deliver to Defendants a full and complete Release releasing Defendants, its employees, agents and affiliates, from liability to Plaintiffs;
- B. Allocate the net settlement proceeds as requested above;
- C. Approve and order payment of attorney fees and expenses as requested above; and
- D. Require the parties receiving funds to provide Defendants receipts for sums received and execute a Satisfaction of Judgment.

Respectfully submitted,

/s/ John S. Steward

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ATTORNEYS FOR PLAINTIFFS

Certificate of Service

The undersigned hereby certifies the foregoing was filed on January 3, 2023 through the Court's CM/ECF system which will serve all counsel of record.

/s/ John Steward